

REMARKS

Claims 1-19 are pending in this application. In the Office Action, claims 1-19 are subject to a Restriction Requirement. By this Amendment, claim 1 and 2 are amended. Support for the amendments to the claims can be found in the specification and claims as originally filed. No new matter is added.

I. Restriction Requirement

The Restriction Requirement requires restriction between Group I (claims 1, 3, 5-15, and 17-18) and Group II (claims 2, 4, 16, and 19). In response to the Restriction Requirement, Applicants hereby elect Group I, claims 1, 3, 5-15, and 17-18, with traverse.

National stage applications filed under 35 U.S.C. §371 are subject to unity of invention practice as set forth in PCT Rule 13, and are not subject to U.S. restriction practice. *See* MPEP §1893.03(d). PCT Rule 13.1 provides that an "international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." PCT Rule 13.2 states:

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

A lack of unity of invention may be apparent "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. *See* MPEP §1850(II), quoting *International Search and Preliminary Examination Guidelines* ("ISPE") 10.03. Lack of *a priori* unity of invention only exists if there is no subject matter common to all claims. *Id.* If *a priori* unity of invention exists between the claims, or, in other words, if there is subject matter common to

all the claims, a lack of unity of invention may only be established *a posteriori* by showing that the common subject matter does not define a contribution over the prior art. *Id.*

Group I claims are all directed to a process comprising applying an ophthalmic medicine or ophthalmic solution comprising a complex nutritive base to an eye of a human or an animal. Group II claims are all directed to a process for treating an item that is designed to come into external contact with a cornea of an eye of a human or an animal, the process comprising treating the item with a treatment product comprising a complex nutritive base. The complex nutritive base in both processes is defined the same. These groups of claims possess unity of invention based at least upon the defined complex nutritive base.

The Office Action relies on Huth et al. to allegedly show *a posteriori* lack of unity of invention. However, Applicants respectfully submit that Huth does not disclose any processes as claimed that utilize "a complex nutritive base ... consisting of a multiplicity of amino acids, vitamins, trace elements, and metallic salts and being free of any cellular growth factor or any biological extract of animal or cellular origin or any pharmaceutically active principle" as recited in the claims of both Group I and Group II. While Huth may disclose compositions that include vitamins, Huth does not disclose and would not have rendered obvious the use of a complex nutritive base consisting of a multiplicity of amino acids, vitamins, trace elements, and metallic salts, and such a complex nutritive base that is free of any cellular growth factor or any biological extract of animal or cellular origin or any pharmaceutically active principle.

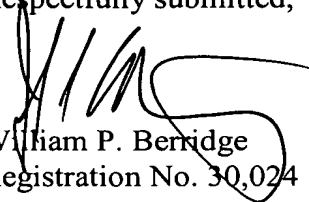
Therefore, Applicants respectfully submit that lack of unity of invention has not been established, and thus a restriction requirement based on a lack of unity of invention is entirely improper.

Thus, for at least the reasons discussed above, withdrawal of the Restriction Requirement is respectfully requested.

II. Conclusion

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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